

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

STEPHEN JONES,)	
)	
Plaintiff,)	
)	Case No. 4:12-cv-2109-CAS
v.)	
)	
MAYOR FRANCIS G. SLAY, <i>et al.</i> ,)	
)	
Defendants.)	

DEFENDANT CARR’S TRIAL BRIEF

Defendant Vincent Carr (“Defendant Carr”), by and through his undersigned counsel, submits his Trial Brief pursuant to the Supplemental Case Management Order entered by the Court on August 27, 2014 (Doc. 253).

I. Factual Background

On October 29, 1997, Defendant Carr applied for and obtained a search warrant to search for drugs at 2802 Missouri Avenue in the City of St. Louis, Missouri. That same day, a team of officers from the St. Louis Metropolitan Police Department (“SLMPD”), including Defendant Carr and his partner, Defendant Shell Sharp (“Sharp”), executed the search warrant.

Upon entering the premises at 2802 Missouri Avenue, Defendants Carr and Sharp observed Plaintiff Stephen Jones

(“Plaintiff”) holding a plastic bag containing illegal narcotics.

Defendants chased Plaintiff through the residence, and apprehended him in the kitchen. Defendants recovered the drugs that Plaintiff had been holding, and detained him on the couch while the premises were searched. In addition to the drugs recovered from Plaintiff, the police also seized guns and money from inside the house.

After searching the premises at 2802 Missouri, Defendants Carr and Sharp took Plaintiff to the station for questioning, and released him about an hour later that same day.

On or about December 15, 1997, a federal warrant was issued for Plaintiff’s arrest, and on December 24, 1997, Plaintiff was arrested by a police officer from an unknown St. Louis County jurisdiction.

On January 8, 1998, Plaintiff was indicted by a federal grand jury and charged with possession of drugs. After a jury trial in February 1998, Plaintiff was convicted and sentenced to 240 months in prison.

In February 2009, Defendant Vincent Carr pleaded guilty to various federal crimes relating to a search and seizure that occurred in June 2008 in the City of St. Louis. As a result of his guilty pleas, Defendant Carr spent approximately one year in prison.

On November 10, 2010, the Honorable Carol E. Jackson of the United States District Court for the Eastern District of Missouri vacated Plaintiff's sentence, and Plaintiff was released from federal prison shortly thereafter having served approximately thirteen years of his twenty year sentence.

On November 9, 2012, Plaintiff filed suit against Defendants Carr and Sharp, and against the SLMPD Board of Police Commissioners. In his Second Amended Complaint, Plaintiff alleges that Defendant Carr violated his due process rights under the Fourteenth Amendment by fabricating evidence and by suppressing exculpatory evidence. Plaintiff further alleges claims against Defendant Carr under state law for malicious prosecution, false imprisonment, and abuse of process. Defendant Carr has denied Plaintiff's allegations.

II. Factual Issues

The primary factual issue to be decided at trial is whether Defendants Carr and Sharp observed Plaintiff holding a bag of illegal narcotics on October 29, 1997. Plaintiff claims that the drugs were recovered from a bedroom at the residence, and not from his person. This is identical to the factual issue decided unanimously by the jury that convicted Plaintiff in February 1998.

III. Legal Issues

a. How may Defendant Carr's criminal history be used.

Defendant Carr anticipates that Plaintiff will attempt to introduce the details of crimes to which Defendant Carr pleaded guilty in February 2009. Defendant Carr further anticipates that Plaintiff wishes to introduce said evidence in order to prove that Defendant Carr had a propensity to engage in "corruption." However, the crimes to which Defendant Carr pleaded guilty occurred in June 2008, and were in no way connected to Plaintiff's arrest and prosecution in 1997 and 1998. Therefore, while Plaintiff may introduce evidence of Defendant Carr's guilty pleas for the limited purpose of impeaching him, such evidence cannot be used by Plaintiff to prove propensity or to show that Defendant Carr "framed" Plaintiff more than ten years earlier in 1997 and 1998. *See Fed.R.Evid. 609.*

b. Whether Plaintiff can make a submissible case against Defendant Carr.

Defendants Carr and Sharp testified at Plaintiff's criminal trial that they observed him holding a bag of illegal drugs on October 29, 1997. Plaintiff's attorney argued in closing that Defendants were lying, but the jury unanimously rejected Plaintiff's argument, and convicted Plaintiff of possessing drugs. The affidavit, warrant, and police report

drafted by Defendant Carr were not shown to the jury, which convicted Plaintiff based on the strength of the testimony provided by Defendants Carr and Sharp.

Given that the affidavit, warrant, and police report were not shown to the jury, Plaintiff cannot rely on such documents to prove his claims against Defendant Carr. *See, e.g., Meyers v. Bull*, 599 F.2d 863, 866 (8th Cir. 1979). The sole reason that Plaintiff's conviction was vacated in 2010 was because the United States lost confidence in the testimony provided by Defendants Carr and Sharp at Plaintiff's trial. No new exculpatory evidence was uncovered that exonerated Plaintiff, and Plaintiff has not offered any new proof in this case to support his claims of innocence.

Defendants Carr and Sharp are immune from liability for any claims arising from their testimony at Plaintiff's criminal trial in February 1998. *Briscoe v. Lahue*, 460 U.S. 325, 326 (1983); *see also Rehberg v. Paulk*, 132 S.Ct. 1497, 1501 (2012). Given that the very testimony for which Defendants enjoy immunity was the decisive factor in securing Plaintiff's criminal conviction in 1998, it is doubtful whether Plaintiff will be able to make a submissible case against Defendants in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2014, the foregoing **Defendant Carr's Pretrial Submissions** was served via the Court's electronic filing system upon all counsel of record.

/s/ H. Anthony Relys
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Assistant Attorney General